

**WISCONSIN DEPARTMENT OF TRANSPORTATION
WISCONSIN DEPARTMENT OF CORRECTIONS
WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES**

**EVALUATION OF ALTERNATIVES TO INCARCERATION
FOR REPEAT DRUNKEN DRIVING**

PHASE 2, PART 2: INDIVIDUAL IN-DEPTH TELEPHONE INTERVIEWS

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INTRODUCTION

Introduction

Study Background

This research project is being conducted as a result of the 1999 Wisconsin Act 109, Section 88 (1) that requires that:

“The Departments of Corrections, Health and Family Services and Transportation shall jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of a person convicted of a 2nd or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug.”

At the request of the above mentioned departments, The Dieringer Research Group, Inc. (The DRG), acting as an independent research consultant, has been contracted to conduct the research study. Russell G. Brooker, Ph.D. is the study’s principal researcher and author. Laura M. Cleary is the Project Manager. Richard W. Yob is the Account Manager. The DRG recommended the Study of Evaluation of Alternatives to Incarceration for Impaired Driving to be conducted in three phases, as outlined below.

Phase One: Secondary Data Collection/Case History Development

Phase Two: Primary Data Collection

Step One: Milwaukee and Madison, Wisconsin

Step Two: *Green Bay, Superior, Wausau, Eau Claire, and La Crosse, Wisconsin*

Step Three: 72 Wisconsin counties

Phase Three: Analysis/Interpretation of Study Findings

This document presents the findings of Step Two of Phase Two.

Study Research Objectives

Phase One:

- Review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide.
- Identify examples of best practices including detailed case study profiles.

Phase Two:

- Identify the practices currently being utilized in Wisconsin as alternatives to incarceration for repeat impaired driving offenders in these categories:
 - Identify the practices currently being used in Wisconsin to reduce repeat drunk driving.
 - Assess the effectiveness of various measures in reducing repeat drunk driving.
 - Learn about the characteristics of drunk drivers in Wisconsin.
 - Obtain insight and advice about reducing drunk driving.

Phase Three:

- Assess and evaluate the effectiveness of the various practices.



Introduction

For this Step Two of Phase Two, The DRG conducted 15 individual, in-depth interviews with experts on drunk driving. All respondents worked in Wisconsin. Interviews were conducted from June 14 through August 1, 2001.

Respondents were selected to represent a variety of different kinds of people with different perspectives. The respondents were also selected so that they complemented the four focus groups that had been conducted earlier. In those groups, all of the participants had lived in the Milwaukee or Madison areas. The respondents in this phase of the study were selected to represent the other areas of the state. The state was divided into five regions:

- The Green Bay region
- The Superior region
- The Wausau region
- The Eau Claire region
- The La Crosse region

The job descriptions and geographic regions of the respondents are shown on the following table:

Functional Areas and Locations of Respondents					
Functional Areas	Region of State				
	Green Bay	Superior	Wausau	Eau Claire	La Crosse
Law Enforcement				X	
Legislative/Court System - Prosecution	X				
Legislative/Court System - Defense			X	X	
Legislative/Court System - Judicial					X
Social Services		X			X
Corrections		X		X	
Education			X		X
Treatment/Counseling Programs		X	X		
Advocate	X				
Correctional Product Vendor	X				
Total Interviewed in Each Region	3	3	3	3	3

SUMMARY AND CONCLUSIONS

Summary and Conclusions

Background

The 1999 Wisconsin Act 109, Section 88 (1) requires the Wisconsin Departments of Corrections, Health and Family Services, and Transportation to jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or need for incarceration of persons convicted of a second or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug. The study is being conducted in three phases.

In this phase, The Dieringer Research Group, Inc. conducted 15 individual, in-depth interviews with experts on drunk driving. All respondents worked in Wisconsin. All interviews were conducted during June, July, and August, 2001.

Respondents were selected to represent a variety of different kinds of people with different perspectives. The respondents were also selected so that they complemented the four focus groups that had been conducted earlier in Milwaukee and Madison. The respondents in this phase of the study were selected to represent the other areas of the state.

Findings

Overall Perspectives of the Study Respondents

The study respondents represented many diverse points of view, but they tended to share a common perspective on the necessity for rehabilitating the repeat drunk driver. Because of this common perspective, they tended to agree on some overarching ideas. The principal areas of agreement are:

- No one measure alone is effective in reducing repeat drunk driving. Any effective policy must include a variety of sanctions and treatment and educational options.
- Ideally, each offender's treatment would be tailored to his or her needs. While this is not often practical, the most effective system will include an assessment to determine each offender's needs and a variety of options to address those needs.
- Both traditional sanctions and treatment and educational strategies, working together, are necessary.
- Traditional sanctions—such as incarceration, fines, and license suspension or revocation—alone will not reduce repeat drunk driving. Sitting in jail, paying money, and losing a driver's license typically are not effective by themselves in convincing repeat drunk drivers to stop drinking and driving.
- Offering treatment and educational approaches alone also will not reduce repeat drunk driving. Some experience with, or threat of, sanctions is necessary to convince the typical repeat drunk driver to participate in treatment and educational programs. For example, reducing jail time is frequently a compelling reason for an offender to participate in treatment for alcoholism.

Summary and Conclusions

- There are clear differences between the typical first-time OWI offender and the multiple repeat offenders. First-time offenders represent a wide variety of society, including social drinkers who just had one too many drinks at a party—what some respondents called “normal people.” On the other hand, multiple repeat offenders tend to be alcohol abusers who have often lost their jobs and their families—and have little else left to lose.
- Because of the difference between the two types of offenders, measures that are effective on first-time offenders, such as fines and license suspensions, are seldom effective for multiple repeat offenders. The persistent offenders almost always need treatment to overcome their alcoholism and get their lives back together.

Specific Measures

The study respondents gave their opinions on several specific measures that should be taken to reduce repeat drunk driving. These measures, and the respondents’ opinions on them, are listed below. They are listed in roughly their level of effectiveness as evaluated by the respondents. The reader should keep in mind that the study respondents did not consider any of these measures, taken by themselves, to be effective. Each measure is effective only if used in an integrated, coordinated program that is conscientiously implemented.

The Most Effective Measures

The measures listed first were generally considered to be effective by all or most respondents.

- Treatment and Education: There was nearly unanimous agreement that treatment and education are important to stop the repeat drunk driver from re-offending. Without treatment and education, the repeat drunk drivers do not have the information, the skills, or the desire to stop drinking and driving. None of the study respondents were opposed to treatment and education.

Although there was widespread agreement that treatment and education are necessary, there was not much agreement on the distinction between treatment and education. Overall, three types of treatment and education were mentioned:

- Information about drinking, alcohol, and alcoholism. (Some respondents called this “treatment,” and others called it “education.”)
- Developing abilities concerning personal relationships such as interacting with the family and resisting peer pressure to drink. (Some respondents called this “treatment,” and others called it “education.”)
- Academic education to teach job skills or earn a high school degree, GED, or HSED. (All respondents who mentioned this called it “education.”)

Because of the varied use of the words and uncertain distinction between the concepts of “treatment” and “education,” this report will usually refer to treatment and education together without trying to distinguish between the two. The only exception is for academic education, which will always be referred to as “education.”

Summary and Conclusions

- Assessment: There was virtually unanimous support for assessments. Assessments are necessary to determine what kinds of treatment and education are most needed for each offender. Since individualized treatment and education are most effective, the assessment is vital. There were some criticisms to the way assessments are implemented today, but there was no opposition to assessments *per se*.
- Intensive Supervision: Many respondents said that multiple repeat OWI offenders need close supervision. Some respondents characterized this level of attention as “hand holding” or “babysitting.” Several respondents also noted that the intensive supervision should begin as soon after the offense as possible.
- The Need for Urgency: Some of the study respondents expressed a need for urgency in beginning any treatment or educational programs. They said that it is important to get the offender under supervision as soon as possible; waiting until a conviction, which could take months, is waiting too long. Some respondents said the offender should enter supervision immediately after the first appearance in court; others said supervision should begin before the first court appearance.

Other Important Measures

The next few measures were generally considered to be effective, although sometimes there was disagreement among respondents.

- Electronic Monitoring: Although not all of the respondents agreed, most considered home confinement with electronic monitoring to be effective in dealing with repeat drunk drivers. The offenders could be compelled to participate in treatment while keeping their jobs and staying with their families. Some respondents said that electronic monitoring is most effective if used with an in-home breathalyzer.
- Victim Impact Panels: Although not all of the respondents had experience working with victim impact panels, those who did tended to rate them highly for effectiveness. They said the panels put a “human face” on drunk driving that many offenders had until then viewed as a victimless crime.
- Community Service: Although many of the respondents were not familiar with community service, those who were familiar said that it helps in the fight against repeat drunk driving. They said it improves offenders’ self-image and sometimes gives them employable skills.
- Work Release (Huber Program): Although not all of the respondents agreed, most spoke positively about work release. They said it permits the offender to maintain ties to the community while serving the sentence.
- Ignition Interlock Device (IID): Only seven of the 15 respondents spoke about IIDs, but they were in favor. They said the devices limited the offender’s ability to drive drunk, while keeping him connected to his family and community. However, one respondent said that only 10%-13% of offenders who are ordered to use IIDs actually do so. Other respondents pointed out that some offenders are able to circumvent the devices.

Summary and Conclusions

- Alcoholics Anonymous: Respondents who were familiar with Alcoholics Anonymous praised its success. They said that AA is very successful for offenders who want to participate in its program. They also said they are not allowed to require offenders to attend AA meetings because of AA's religious component.

Traditional Sanctions

The next four measures are the traditional sanctions of incarceration, fines, license suspension/revocation, and penalties for Operating After Revocation (OAR). Although no respondents were in favor of abandoning any of these sanctions, many were skeptical of their effectiveness in dealing with persistent drunk drivers. That is, they said that all these sanctions can be effective for some drivers, particularly first-time and second-time offenders, but imposing more of a sanction does not add much effectiveness.

- Fines: Some respondents said that fines are effective in deterring drunk driving, but more respondents said that extremely large fines are ineffective. They said that for many offenders, fines in the thousands of dollars are no more realistic than fines in the millions of dollars; the offenders cannot pay them. They said that large fines keep many offenders from participating in assessments and therefore from getting treatment. They also said that some offenders, realizing that they will never be able to pay their fines, do not make any attempt to straighten out their lives.

Some respondents said that fines punish the poor more than other offenders. They said that fines should be on a sliding scale based on the offender's ability to pay.

- Incarceration: Respondents also favored the use of incarceration for repeat drunk drivers. The reason that respondents gave most often for using incarceration is as an incentive for participating in treatment or educational programs. According to the respondents, incarceration should be used as a carrot (reduced jail time for participation) or a stick (jail time for not participating, or not completing, a program).

Some respondents said that jail is an excellent deterrent. Other respondents said that long-term incarceration does not change a drunk driver. One respondent said long jail or prison terms just make criminals out of people. Another said that offenders struggling with alcohol had learned their lesson within six months.

Some respondents did say that "warehousing" offenders for long periods of time did keep them off the roads. They viewed this as a last resort; for some persistent drunk drivers, that is all that can be done.

- Driver's License Suspension/Revocation: While none of the study respondents opposed using license suspension and revocation in the fight against drunk driving, most were dismissive about the effectiveness of license suspension and revocation in affecting repeat drunk drivers. Most of them said that the offenders just drove without licenses.
- Penalties for Operating a Vehicle after Revocation (OAR): A few respondents said that there should be harsh penalties for OAR, but most of those who addressed OAR said that the penalties are already harsh enough.

Summary and Conclusions

The Least Effective Measures

The following four measures were generally unpopular with the study respondents:

- Vehicle Seizure: Although some respondents said that vehicle seizure is effective in fighting repeat drunk driving, more said that it is not effective. They said that drunk drivers tend to drive very cheap vehicles (often worth less than \$100). However, one respondent said that in poor rural areas where few families have more than one vehicle, confiscating that one can keep drunk drivers off the roads.
- Disabling the Vehicle: Although most respondents did not have experience with vehicle disabling and did not offer an opinion, most of those who did were opposed to it. They said that the vehicles are not worth much anyway, so the offenders are not particularly worried about losing the use of them.
- Zebra Plates: None of the respondents had personal experience with special license plates for repeat drunk drivers (the plates are often called “zebra plates” because they typically have stripes on them). Most respondents did not like the idea. They said that it punished other family members and was too much like branding someone with a “scarlet letter.”
- Public Humiliation: Generally, the respondents felt that public humiliation techniques, such as printing offenders’ names in the local newspaper, might be effective for first-time offenders but would not be effective for repeat offenders.

Implementation Issues

The following three implementation issues came up during the interviews, although there were no specific questions about them. The first one concerns a problem in the system of accounting for drunk drivers. The next two are impending problems with drunk driving that many respondents said are inevitable with the new “get tougher” laws.

- Holes in the System: There are some holes in the system of accounting for drunk drivers. According to one prosecuting attorney, the courts are not informed if a convicted offender does not go to an assessment. As a result, they do not know if offenders have participated in treatment or educational programs or have had their driver’s licenses reinstated. In addition, one respondent said that only 10%-13% of convicted offenders who are ordered to install an Ignition Interlock Device (IID) actually do so. In sum, the ability of the state to monitor convicted offenders is limited, and the ability of offenders to avoid treatment, education, and punishment is enhanced.
- Lack of Jail Space: Several respondents noted that incarceration is an extremely expensive way to deal with drunk driving. The respondents did not say that there is inadequate space today, but they said that with increasingly strict OWI laws, the state and local jurisdictions will be forced to build new facilities if they are to incarcerate all the offenders who are sentenced to jail or prison.

Summary and Conclusions

- Changing Definitions: Some respondents commented on changes in the drunk driving laws, especially how “repeat offenders” are defined. Whereas previously, OWI convictions were “forgotten” after several years, now they continue to compile for a driver’s life from 1989. Some respondents said that there will be an increase in “repeat” drunk drivers as time progresses and 1989 recedes into history. Because of the changing definition of “repeat” drunk driver, the OWI statistics will appear to be getting worse, and jails and prisons will become more crowded with OWI offenders.

MAIN FINDINGS

Main Findings

Overall Perspectives of the Study Respondents

Introduction

Although the study respondents had varied perspectives and emphasized different aspects of the struggle against repeat drunk driving, they did tend to agree on some basic fundamentals of reducing drunk driving. Agreement on fundamentals was due to a common goal in the fight against drunk driving. According to almost all of the study respondents, the most important goal in the fight against repeat drunk driving is to rehabilitate and reform repeat OWI offenders. That is, the goal is change the repeat drunk driver into a legal driver, or a non-driver.

All the respondents favored punishing the repeat offenders—but from the point of view of encouraging or compelling them to rehabilitate themselves, not from the point of view of revenge or punishment for punishment's sake. Those respondents who advocated long-term incarceration for incorrigible repeat offenders did so only as a last resort to protect the public. One member of the Criminal Justice Council summed up the overall attitude of the respondents when he said that a drunk driving program “*cannot be solidly focused on revenge or punishment of the driver.*”

The main things on which the participants in this study agreed are:

- No one measure alone is effective in reducing repeat drunk driving. Measures are effective when used in a coherent, integrated program that is conscientiously implemented.
- Each offender's treatment should be individualized as much as possible.
- Traditional sanctions, such as incarceration, fines, and license suspension, should be used in conjunction with treatment and education programs.
- There are clear and consistent differences between the typical first-time OWI offender and the multiple repeat offender. The average first-time offender usually has a job and a family—and a lot to lose—and is embarrassed to be stopped for drunk driving. The average multiple repeat offender (especially one with five or more OWI arrests) is less likely to have a job or a family and is not particularly embarrassed to be stopped for drunk driving.

Because of the differences between these two types of offenders, measures that are effective for first-time offenders tend to not be effective for persistent offenders. Specifically, fines, license suspensions, and threats of incarceration that tend to be very effective with first-time offenders tend to be ineffective for multiple repeat offenders.

Integrated Programs Conscientiously Implemented

One consistent theme of the interviews was that for any strategy to be successful, it must integrate treatment and educational programs with the traditional sanctions of incarceration, fines, and license suspension/revocation.

Main Findings

The respondents emphasized that the core of any effort to reduce repeat drunk driving is treatment for alcohol abuse. Alcohol abuse is the foundation of repeat drunk driving; without addressing it, repeat drunk driving will not be reduced. Without treatment, the offenders will simply continue to drive drunk. There is nothing inherent in the exercise of sitting in jail, paying fines, or losing a driver's license that convinces a person who drives after drinking to stop doing so. As a jail administrator said, *"Incarceration alone is not the answer. If it worked, why would we have people with fifth, sixth, seventh, and eighth offenses?"* Many study respondents echoed this viewpoint. To paraphrase them: *"If punishment worked, we wouldn't have as much drunk driving as we do."*

In addition to treatment, many offenders need education. Many are not aware of the effects of alcohol on their bodies, their lives, and their wallets. Many are not aware of strategies to resist the need to drink and peer pressure to drink. Many are not aware of the toll of alcoholism on their families.

The treatment and education programs must be conscientiously implemented, which usually involves close supervision. Several respondents pointed out the need to monitor the offenders closely—checking on them frequently. Some of the respondents referred to it as “babysitting” or “handholding.”

But treatment and education by themselves will not be successful in reducing repeat drunk driving. Most alcoholic repeat drunk drivers are resistant to enter treatment and education programs and stay in them until completion. These resistant offenders need encouragement to enter and stay with the programs. This “encouragement” typically takes the form of the threat of punishment or the possibility of reduction in punishment. For example, offenders may reduce their jail time or their fines by participating in, and completing, programs on alcoholism. As one study respondent said, *"We can turn a punishment into an incentive."*

One AODA Coordinator summed up his idea of a strategy that works:

"What works is a combination of treatment, sanctions, close monitoring, and incentives. You can reduce your jail time by one-half by longer monitoring."

A judicial official explained what works in much the same way:

"What works is a combination of treatment, supervision, testing, and regular follow-up in the community. But these things work best in conjunction with jail or the threat of jail. The offender may get electronic monitoring if he follows orders, or he may get his incarceration stayed. Jail alone is usually not effective."

A human services professional said that if she could design her ideal program for dealing with repeat drunk driving, she would include:

"Early and harsh intervention, with all offenders [including first-time offenders] receiving a comprehensive assessment and a follow-up plan and a strong education component about alcohol and family relations. The offenders—not the taxpayers—would pay for it."

Main Findings

An anti-drunk driving advocate said:

“Punishment alone doesn’t change anything. There has to be treatment and education. Rehabilitation often does not have an impact without education. You can’t do one without the other. The combination of methods is what counts.”

Individualized Treatment: The Importance of an Assessment

What works for one person may not work for another. The government should have a variety of options that it can use on each person as appropriate. As several respondents indicated, there is no generic offender.

One of the most important steps in guaranteeing appropriate handling of an OWI offender is the initial assessment. The results of the assessment give the authorities information on how to proceed. One main reason to have a large number of sanctions, treatment strategies, and educational programs available is having the ability to choose the most effective options and apply them to each offender. One AODA assessor said:

“Unless they go in for the assessment and get treatment and education, there is no hope for changing, for making better choices.”

Another important reason to conduct an assessment is to determine how the offenders view themselves and their responsibility for having driven a vehicle while intoxicated. A treatment counselor said:

“The initial assessment is important. A goal is to see if they take ownership for their OWI and dependence [on alcohol] and get a history of their habit. [It is also to] see if they think they have a problem. Some offenders, even after four OWIs think they have just had bad luck or the police are out to get them. Some are defiant at first but eventually take responsibility for their actions.”

A court official said that the assessment should be used to uncover several issues in addition to alcoholism, including:

- Psychological issues
- Social issues
- Economic issues

A public defender said that what works is *“immediate diversion to an assessment—immediately after the initial appearance in court.”* He said the immediacy of the assessment and consequent treatment makes the treatment more effective than it would be if it occurred after a conviction several months later.

An educator from a technical college said an assessment is necessary to determine what education an offender needs, although he was skeptical about the value of education for a multiple repeat offender.

“The assessment obviously has to take place. Certain individuals need it more than others. The [third and subsequent offender] is beyond benefiting long term by education. They are in need of more than what we have to give them.”

Main Findings

One AODA counselor said that the assessment is so important that offenders should not be eligible for lighter sanctions if they do not appear for their assessments:

“If they don’t come in for their assessment, electronic monitoring and Huber should not be offered.”

A different public defender said that some offenders do not receive assessments because they cannot afford them. He suggested instituting a fee schedule based on the offender’s ability to pay.

“I would include it, but it costs \$175. There is no free assessment for the indigent. There should be a sliding fee based on the ability to pay.”

Traditional Sanctions Support Treatment and Education

Although virtually all of the study respondents emphasized the need for treatment and education of the repeat drunk driver, they favored supporting that treatment and education with the traditional sanctions of incarceration, fines, and license suspension and revocation.

The most important reason for using sanctions with treatment and education is to give the offenders incentives to participate in the treatment and education. Some of the respondents in the study said:

“Traditional sanctions work most effectively if they can be used persuasively to keep people in counseling or establishing the terms of counseling....Incarceration has to be kept in the mix as what will happen if they don’t complete their counseling or do what they are supposed to do.”

“They [incarceration and treatment] should go hand in hand, so if one doesn’t follow through with the minimum requirements, the jail time should be restored.”

“Everything that is done needs to be in conjunction with jail time.”

“Some incarceration time, some treatment time. More treatment time, less jail time. But do not reduce the jail time to zero.”

“Give them a choice. Go to jail, take away the drugs, and give them a chance to go into treatment and education. They are more susceptible to change—even if they are just trying to get out of jail. They learn something; it gives them other options.”

In addition to traditional sanctions supporting treatment, treatment can also support the traditional sanctions. Many repeat drunk drivers simply do not care about sanctions, so punishment and the threat of punishment are not effective with them. After they have sobered up, however, and see the consequences of the sanctions, they can appreciate their severity and take appropriate actions. One AODA assessor said:

“For repeat drunk drivers, consequences are not a concern until they sober up.”

Main Findings

Differences Between First-Time Offenders and Multiple Repeat Offenders

Several study respondents said that there are important differences between the driver who has one, or even two, OWI arrests. They said that, compared to the multiple offender, the first-time offender tends to:

- Have more
 - Have a job
 - Have enough money to pay a fine
 - Have a family
 - Have a good vehicle
- Be affected by other sanctions
 - Be embarrassed about being stopped for drunk driving
 - Be more threatened by the prospect of jail

The study respondents pointed out how sanctions that might deter an ordinary person with one OWI, or no OWIs, might not be effective for a multiple offender. For example, one respondent said that public humiliation would be effective for first-time offenders, but as a person rolled up more offenses, humiliation would be less and less effective. He said, *“Repeat drunk drivers don’t have a stake in the community—no job and no family.”* As a result, they are less concerned about what the community might think.

Other study respondents also voiced this opinion.

“More jail time is a deterrent for somebody with something to lose. The consequences are not much of a problem once they start drinking. It wouldn’t matter if the sentence was 30 or 180 days. It would not be a deterrent.”

“First time offenders are more responsible. There are some responsible third and fourth offenders. Not fifth time offenders. By that time they have had consequences that should deter them from drinking. We don’t know what to do with those people.”

Specific Measures

The study respondents gave their opinions on several specific measures that have been used or suggested to reduce repeat drunk driving. These measures, and the respondents’ opinions on them, are listed below. They are listed in roughly their level of effectiveness as evaluated by the respondents. The reader should keep in mind that the study respondents did not say that any of these measures, taken by themselves, would be effective. Each measure is effective only if used in an integrated, coordinated program that is conscientiously implemented.

Main Findings

The Most Effective Measures

The first few measures listed here were generally considered to be effective by all or almost all respondents.

Treatment and Education

There was nearly unanimous agreement that treatment is important to stop the repeat drunk driver from re-offending. Without treatment, the repeat drunk drivers do not have the information, the skills, or the desire to stop drinking and driving. A public defender spoke for most of the study respondents when he said, *“I absolutely recommend alcohol treatment.”*

There was also widespread agreement about the importance of education, but respondents used the word “education” in three different ways:

- Education about drinking, alcohol, and alcoholism.
- Education about personal relationships such as interacting with the family and resisting peer pressure to drink
- Academic education to teach job skills or earn a high school degree or GED

The first two uses of the term “education” are identical to others’ use of the term “treatment.” In addition, some respondents even understood academic education to be a variety of treatment. In this report, we will not attempt to sort out the precise meanings of the terms. Except for academic education, we will discuss treatment and education together.¹

An anti-drunk driving advocate said that the first type of education (treatment) is essential. She said that some offenders have been drinking since before they were 21 years old and do not understand the effects of alcohol on their lives. She said:

“Education is vital. Rehabilitation often does not have an impact without education. You can’t do one without the other. They [the offenders] have to learn:

- *What alcohol does to your body—physiologically, developmentally, and behaviorally*
- *What it does to others*
- *Drunk driving is wrong.”*

An AODA counselor said that his education (treatment) programs teach offenders about alcohol with a somewhat different focus:

- The OWI laws
- Their own use of alcohol
- Costs of the alcohol
- Costs of the OWI fines

¹ Discussing treatment and education together does not imply that they are the same—only that the distinction between them is not consistent among respondents. Most respondents could explain the difference between treatment and education, but they would apply the terms differently. For example, some respondents said that when an offender learns about his own alcohol addiction, he is involved in treatment, while others said he is involved in education. Rather than impose a consistent distinction between treatment and education, which did not exist among the respondents, the two measures are discussed together.

Main Findings

He said that many offenders are surprised to learn how much they have paid for their alcohol and how much they owe in fines. In addition, there is another program in his county that approaches education in a “cognitive intervention group.” In these groups offenders look at:

- Their thinking patterns
- Their beliefs and values
- How their behavior conflicts with their beliefs
- Life management
- Self esteem
- How they can change

A court official said that treatment in her county included:

- Treatment for substance abuse
- Help in restructuring the offenders’ thinking—changing their criminal behavior
- Education, including:
 - Employment skills
 - Education to help them earn their GED (General Equivalency Diploma) or HSED (High School Equivalency Diploma)
- Giving them help in handling their financial problems

A member of the Criminal Justice Council said that counseling that works best includes:

- Counseling about the offender’s living circumstances
 - Whom the offender lives with
 - Whom the offender hangs out with
 - Whom the offender works with
- Counseling about the context of the offender’s life
 - Motivations for drinking
 - Psychological and physiological reasons for drinking
 - Peer pressure and drinking

A public defender said that education is crucial so the offender can learn:

- Why he drinks
- The disease of alcoholism
- The effects of environmental factors, such as depression from not having a job

The public defender also thought that academic education would also help solve the problem of repeat drunk driving. He said, “*The more education you have, the less likely you are to be a repeat drunk driver.*” He said that for most repeat drunk drivers, “*the economic gravy train went by and missed them*” so if they had an education and the subsequent good job, they would be less likely to drive drunk.

Main Findings

One AODA coordinator said his county has a Multiple Offender Program. He said the program works through the local technical school. The counselor is a credentialed mental health professional. A “significant other” has to attend one or two sessions. The course consists of five all-day Saturday sessions, for 36 total hours, and a three month follow-up. It includes education about:

- Alcohol, drugs, and driving
- The effects of alcohol on the family

Although the respondent said he is impressed with the program, he said it has been in operation less than a year and has not been evaluated.

Another respondent said his county has a program funded by the state Department of Transportation, the Intoxicated Driver Intervention. He said he thinks the program is successful, although he said it had not been in operation long enough to evaluate its effectiveness.

Although there was agreement on the need for treatment and education, there were differences of opinion concerning the effectiveness of inpatient treatment. A public defender said that a 28 day inpatient treatment was effective in his county, but that Medicaid had been reduced to ten days, so the offenders who cannot pay for the entire program receive only ten days’ treatment.

However, some respondents doubted the value of inpatient treatment. They said that it is easy for an offender to stay dry while locked up. The real test is whether he can stay dry when he is back in his community with the same environment where he was drinking and driving. A court official summed up the beliefs of several respondents: *“Outpatient treatment in the community is more effective.”*

Assessment

There was virtually unanimous support for assessments. Since individualized treatment is most effective, each offender’s needs must be known. There were some criticisms about the way assessments are implemented today, but there was no opposition to assessments *per se*. The necessity for assessment has already been discussed in this report.

One respondent said the assessment should be improved. He said that now a third person, whom the offender knows, just repeats what the offender says. According to this respondent, the offender and the “collateral person” should be interviewed separately.

One prosecutor said that the court is not informed if an offender fails to go to a required assessment, the district attorney is not informed. As a result, the DA is not informed if the offender fails to get treatment or education. He said,

“The real problem is that if they don’t get the treatment, the court doesn’t find out until the offender is stopped for drunk driving or OAR.”

A study respondent who represented an advocacy group favored using assessments but pointed out that some offenders accustomed to the procedure could “work” the system.

“They need assessments, but repeat offenders know how to work the system to get around those assessments. But assessments need to be part of the puzzle.”

Main Findings

One respondent said that one reason some offenders do not get assessments is the cost:

“Paying for assessments can be expensive. Many can’t afford them, so they don’t get treatment and they drive without their licenses. Some still haven’t done an assessment on the fourth offense. Driving OAR is common because they can’t afford the assessments. There should be a lower price that is consistent across the state.”

Intensive Supervision

Many respondents said that multiple repeat OWI offenders need close supervision. Some respondents characterized this level of attention as “hand holding” or “babysitting.” Several respondents also noted that the intensive supervision should begin as soon after the offense as possible.

One jail administrator said his county has a successful program that involves close supervision. The authorities try to get the offender into a program 12 – 24 hours after arrest. They require the offender to attend regular meetings or sessions, visit with the offender at least once per week and contact him by telephone more frequently. Any offenders who are “just going through the motions” of treatment are thrown out of the program.

A court official said that programs in her county include supervision with a case manager, frequent and random drug and alcohol testing, and may include electronic monitoring. There is a follow-up 18 months after the program ends. The threat of jail is used as an incentive for offenders to participate in the program.

The Need for Urgency

Some of the study respondents expressed a need for urgency in beginning any treatment or educational programs. They said that it is important to get the offender under supervision as soon as possible; waiting until a conviction, which could take months, is waiting too long. Some respondents said the offender should enter supervision immediately after the first appearance in court; others said supervision should begin before the first court appearance.

A treatment and counseling official answered the question, “What works to reduce repeat drunk driving?” by saying, “*Early intervention.*” He said that the offender should “*do a broadbrush assessment*” as early as the initial hearing. The offender should also set up a monitoring program and a support group to meet at least once per week. A public defender answered the same question by saying,

“Immediate diversion to an assessment—immediately after the initial appearance in court.”

He went on to say that an immediate assessment can help the offenders get their lives back together long before a conviction that could take months.

Main Findings

Other Important Measures

The following measures were generally considered to be effective in reducing repeat drunk driving, but there was not the overwhelming level of agreement as there was for the measures listed previously.

Electronic Monitoring (EMS)

Although not all of the respondents agreed, most considered home confinement with electronic monitoring to be effective in dealing with repeat drunk drivers. The offenders have their freedom restricted and can be compelled to participate in treatment while keeping their jobs and staying with their families. Some respondents said that electronic monitoring is most effective if used with an in-home breathalyzer that relays the results of the BAC test over telephone lines.

A treatment counselor listed the advantages of using EMS with a breathalyzer. He said that electronic monitoring is better than jail because:

- The offenders can keep their jobs.
- The offenders can participate in groups.
 - “There is more incentive to do groups on the bracelet—or go back to jail.”
- The offenders can get treatment.
 - “There is little motivation to get treatment in jail.”

A court official listed some advantages of electronic monitoring with a breathalyzer. According to her, electronic monitoring:

- Helps the offender with self control
- Helps keep the offender on track
- Is a reminder to not drink

But she said that EMS without treatment is not more effective than jail. Another respondent, a public defender, agreed with her about the necessity of treatment. He said that *“electronic monitoring is a good idea if coupled with treatment.”*

One jail administrator said that electronic monitoring in conjunction with a breathalyzer was very successful in his county. He said the in-home breathalyzer made it unnecessary for the offender to go to the jail to have his BAC measured. According to this administrator, the EMS program:

“...has been really successful. It covers our liability to keep the community safe and ensures compliance.”

However, two respondents expressed misgivings about electronic monitoring:

“From the victim’s standpoint, they [the offenders] are allowed too much freedom and not enough responsibility for their actions.”

“They [the offenders] don’t learn a lesson at all. It is not a deterrent.”

Main Findings

Victim Impact Panels

Although not all of the respondents had experience working with Victim Impact Panels, those who did tended to rate them highly for effectiveness. They said the panels put a “human face” on drunk driving, whereas before the Victim Impact Panel experience, many offenders had viewed drunk driving as a victimless crime.

A respondent from an anti-drunk driving advocacy group was clearly in favor of Victim Impact Panels. She said, *“We have seen significant reductions in recidivism through victim impact panels.”* A district attorney agreed: *“They are effective in reducing recidivism.”*

A counselor said that he holds Victim Impact Panels every three months, using volunteers supplied by Mothers Against Drunk Driving (MADD). He said it is not difficult to keep them going, but he does not hold them more frequently because they are traumatic for the panelists. He said the panels change offenders’ attitudes:

“Victim Impact Panels change attitudes. Before, the offenders considered themselves the victims, harassed by the police with jail and fines. They thought, ‘Poor me.’ But after the victim impact panels, their attitudes changed. Victim Impact Panels are critical for multiple drunk driving.”

Some respondents, often with less experience with Victim Impact Panels, favored using them but were less enthusiastic:

“They have a mild influence. I’m in favor of them.”

“I think there’s a variable response to that. At some base level it can’t but have an effect. I don’t see how it could be bad.”

Community Service

Although many of the respondents were not familiar with community service, those who were said that it helps in the fight against repeat drunk driving. They said it improves offenders’ self-images and sometimes gives them employable skills.

Some respondents pointed out that the effectiveness of community service depends on the type of service and the spirit in which it is given. For example, a respondent from an anti-drunk driving advocacy group said that community service is most effective when tied to drunk driving, such as speaking to teenagers about driving drunk. She suggested using offenders to work in hospital wards, caring for the victims of drunk driving.

Some respondents said that community service needs to be closely supervised so that the workers really do show up for work and do meaningful work.

A member of the Criminal Justice Council said that community service:

“...can be good or bad. It can, if used with counseling, be good for an offender who doesn’t work regularly. It could teach work habits and skills and a regular schedule.”

Main Findings

A district attorney said that community service is more of a way to give something back to the community than a deterrent. He favored converting fines—but not jail time—into community service.

One respondent was skeptical that there would be adequate follow-up to make sure the community service is meaningful. He said community service is more *“a slap on the hand.”* However, he did favor community service *“if they [the offenders] really are providing service.”*

Work Release (Huber Program)

Although not all of the respondents agreed, most spoke positively about work release. They said it permits the offender to maintain ties to the community while serving the sentence.

A police officer favored work release because it gives the offenders responsibility and, *“A job to help them pay off some debts. It helps them keep going.”*

Some respondents stressed the fact that the offender can still provide for his family while serving time in jail. Two respondents said:

“Without Huber, you punish the offenders’ families.”

“You can’t keep them in jail if they have a job and family. You’re putting his family on welfare.”

The second respondent said that if the offender is not employed, the authorities should keep him in jail and provide treatment.

Ignition Interlock Device (IID)

Only seven of the 15 respondents spoke about IIDs, but they were in favor. They said the devices limited the offender’s ability to drive drunk while keeping him connected to his family and community. One respondent said:

“It is effective. I would like to see that across the board for all counties for the third offense and above.”

Although there were no criticisms of IIDs in principle, there were some reservations about their use in actual practice. Some of the reservations were:

- The offender could have access to other vehicles without the IID.
- The vehicle could be re-wired to avoid the IID. (One correctional product vendor said it is extremely difficult to wire a vehicle around the IID, but a respondent in a rural county said that most adults know how to re-wire a car or know somebody who does.)
- Most convicted offenders who are ordered to get an IID simply do not do so. One respondent said that in almost all the Wisconsin counties (except Dane and Walworth Counties), there is no follow-up to see if the IIDs are really installed, so only about 10%-13% of the convicted offenders actually use them.

Main Findings

A respondent said that a major limitation of IIDs—and an important reason that many offenders do not use them—is their expense. He said that it is less expensive to get caught driving with a suspended license and pay the fine than to pay for the IID and get a valid license.

Alcoholics Anonymous

Respondents who were familiar with Alcoholics Anonymous praised its success. They said that AA is very successful for offenders who want to participate in its program. They also said they are not allowed to require offenders to attend AA meetings because of AA's religious component.

One AODA counselor said that although he cannot require the use of Alcoholics Anonymous,

“...we use it all the time. It's extremely effective for the people who embrace it.”

Another respondent said that Alcoholics Anonymous *“is one of the few programs that works.”*

Some respondents noted that Alcoholics Anonymous is effective only for those offenders who participate actively in the program; it does not work for those who just go through the motions. A court official said:

“Alcoholics Anonymous is extraordinarily supportive [but] it has to be internalized to be effective. It won't work if you make them go and they are resentful.”

Traditional Sanctions

The next four measures are the traditional sanctions of fines, incarceration, license suspension/revocation, and penalties for Operating After Revocation (OAR). Although no respondents were in favor of abandoning any of these sanctions, many were skeptical of their effectiveness in dealing with persistent drunk drivers. That is, they said that all these sanctions can be effective for some drivers, particularly first-time and second-time offenders, but that, by themselves, they are not effective for persistent OWI offenders. They also said that imposing more of a sanction does not necessarily add effectiveness.

Fines

Some respondents said that fines are effective in deterring drunk driving. One person said:

“We need fines. Money is high on the list of consequences for people.”

But more respondents said that extremely large fines are ineffective. They said that for many offenders, fines in the thousands of dollars are no more realistic than fines in the millions of dollars; the offenders cannot pay them. They said that large fines keep many offenders from participating in assessments and therefore from getting treatment. They also said that some offenders, realizing that they will never be able to pay their fines, do not make any attempt to straighten out their lives.

Main Findings

Some of the comments on the subject of high fines were:

“[High fines] are ineffectual. They are already so astronomical. These folks [offenders] are usually at the bottom of the economic ladder anyway. Higher fines won’t do any good.”

“With the fines, it seems like an unobtainable number. They still owe from their priors. Plus they have to pay for their assessments.”

“Fines become irrelevant when they get very high.”

“Fines are effective for the short term. Six months or a year down the road, they’ve forgotten what they paid.”

“It becomes incredibly difficult to pay the fines, so they get more OARs. Intoxicated people can’t pay the fines. Fines won’t change behavior. They are not effective.”

“Tripling and quadrupling fines are not effective. People can’t pay them. Fines are not a deterrent. The state becomes like a collection agency, but the state seldom collects.”

“Extremely high fines are not useful. A \$5,000 fine might as well be a \$5 million fine. High fines keep them from getting their license and reinforces the cycle of depression and hopelessness—one more reason to drink. Smaller fines would have more of an effect than larger fines.”

One public defender, who deals with indigent clients, said:

“With fines you might as well be talking about the Academy Awards. Fines are not a part of their reality. They can’t pay them. A fine does nothing to deter my people.”

Some respondents said that fines punish the poor more than other offenders. They said that fines should be on a sliding scale based on the offender’s ability to pay. One respondent said:

“Fines have to be relative to a person’s income if they are going to be effective.”

One respondent, a public defender, said:

“Skew it away from the monetary penalties. It impacts on rich and poor differently. It is better when it impacts on the rich and poor the same.”

Main Findings

But one respondent favored having offenders, even poor ones, pay the fines. She said that the public does not want to pay for the offenders' alcoholism; the public would rather pay for more deserving programs.

"There needs to be fines. All taxpayers should not have to pay for treatment of an offender who pays nothing. The offenders should pay the fines and should accept responsibility for their actions. If they are too poor and can't pay it, they can pay it later. Maybe they could use community service to work it off. I don't like the sliding fee scale. Poor people wouldn't contribute. They would get off. Taxpayers would rather pay for services for children than for alcoholics."

Some respondents said that fines are effective for the middle class first-time and second-time offenders because they will probably pay them. They will also pay for steeply increased automobile insurance premiums.

Some respondents also noted that the threat of fines can be effective in keeping the offender going to supervision or counseling.

Some respondents pointed out that there is resistance among officials to reducing fines and other OWI charges, such as paying for assessments, because the system depends on money from fines and charges.

Incarceration

Although there was overwhelming agreement that incarceration alone does not change a repeat drunk driver, all the respondents favored the use of incarceration for repeat drunk drivers, but mostly as a carrot or a stick to encourage offenders to participate in, and stay with, treatment and educational programs. The "carrot" would be the opportunity to avoid or minimize incarceration by completing a treatment or education program, and the "stick" would involve getting sent back to incarceration by not completing a treatment or education program.

One respondent said that jail time is a deterrent for rational drivers with something to lose, but is not for offenders with drinking problems; he said incarceration and treatment should be used together to compel the offender to stay with treatment:

"[More jail time] is a deterrent for somebody with something to lose. The consequences are not much of a problem once they start drinking. It wouldn't matter if the sentence was 30 days or 180 days. It would not be a deterrent.... [Jail and treatment] should go hand in hand. If one doesn't follow through with the minimum requirements, the jail time should be restored."

Other respondents also said that jail should be a threat for those offenders who do not enter and stay with their treatment and education programs:

"There should be a threat of incarceration if you fail."

Main Findings

Other than using incarceration as a device to encourage treatment and education programs, there was much disagreement among the respondents about the value of incarceration. One respondent said that long-term incarceration tends to turn offenders into criminals. Even if treatment is offered during the incarceration, if there is no possibility of reduction in time served, the offender will be unlikely to actively participate in it and benefit from it.

“Long-term incarceration tends to make criminals out of people. They say, ‘I’ll do my time.’ We create tough hardened people. Even with treatment, if there is no incentive, they are not invested in the treatment and it probably isn’t effective.”

Other respondents minimized the effectiveness of jail in reaching the drunk drivers, such as:

“All we are teaching these people is that they can survive jail. It’s an inconvenience, but it’s not the end of the world. It’s survivable.”

A respondent who was opposed to long-term incarceration because it treats alcoholics as criminals said:

“Most of our clients are good working citizens who have a drinking problem. They are not criminals. I don’t look on an alcoholic as a criminal.”

Generally, respondents dismissed the effectiveness of long-term incarceration except as a method to get the drivers off the streets. One answered the question, “What does not work to reduce repeat drunk driving?” by saying:

“Long-term incarceration. For example, five years on a fifth offense. The families of repeat drunk drivers suffer. We’ve gotten tougher on these offenses, but we have not seen a reduction in drunk driving.”

However, some of the respondents said that jail is an excellent deterrent. One answered the question, “What works to reduce repeat drunk driving?” by saying:

“Fear of jail. Fear of being taken away from drinking.”

A representative from an anti-drunk driving advocacy group had a more positive view of incarceration because she favored criminalizing the first offense and sending first-time offenders to jail. She said even if there were no jail time involved, the first offense should be criminalized.

“Everything that is done needs to be in conjunction with jail time. First-time offenders should go to jail. The first offense needs to be criminalized. Even if there is no jail time, the first offense needs to be recorded as a criminal offense.”

Several respondents favored long-term incarceration for persistent drunk drivers when every other measure has failed. Eventually, “warehousing” is the last option.

Main Findings

Driver's License Suspension/Revocation

While all of the study respondents favored using license suspension and revocation in the fight against drunk driving, almost all were dismissive of the effectiveness of license suspension and revocation in affecting repeat drunk drivers. Most of them said that the offenders just drove without licenses.

Generally, the study respondents said that license suspensions tend to be successful for the first-time offenders but do not work for repeat offenders. Many of them do not have licenses anyway because they were suspended or revoked for previous offenses, so suspension or revocation is a moot issue.

One public defender said, *"We give suspensions with our fingers crossed."* He said that many people can get occupational licenses, and many just drive without licenses. Other comments on license suspension and revocation were:

"Taking the license away has little value. The license is the carrot, but it isn't effective for most people."

"Drunk drivers probably won't care if they drive without a license. They drove drunk, which is illegal."

"[Suspension] is not working. Just look at the number of OARs we have. It's astronomical."

"The effect [of lengthy suspensions] is to increase the likelihood that they will get picked up for driving after revocation."

"Suspension creates a lot more work for law enforcement. The drunk drivers are still out there. They're just driving without a license."

One respondent said that license suspension and revocation could be effective, but *"there is no teeth in it here."* She said:

"It should be like hunting and fishing licenses. Take the car. Doing time is not necessarily bad for some people."

Although some respondents said that Administrative License Suspension (ALS) could be effective for first-time offenders, there was no enthusiasm for ALS. In addition to the feeling that suspensions are not effective anyway, there was a constitutional problem that the offender is being punished before conviction. One respondent said:

"I have a tough time with that one [ALS]. The offender is being penalized before the case is over."

A respondent said that the widespread use of license suspension creates criminals.

"The state of Wisconsin is turning people into criminals. Wisconsin is a rural state without much mass transportation. By suspending the licenses of so many drunk drivers, it is forcing them to drive without licenses. They need to drive in order to go to work."

Main Findings

Penalties for Operating a Vehicle After Revocation (OAR)

A few respondents said that there should be harsh penalties for OAR, but most of those who addressed the issue said that the penalties are already harsh enough.

An educator in a technical college favored harsh OAR penalties because he was not convinced that offenders had no other way to get to work:

“I am not convinced that this [the offender driving] is the only way to get to work.”

An AODA coordinator said “fairly strong punishment” (“stiff jail time”) is needed for OAR, but he questioned whether it would work:

“We need some fairly strong punishment, and widely publicize it. [But] maybe that wouldn’t work. People who OAR continue doing it. For those who do it anyway, I don’t know anything that works.”

He said that treatment and education should be available in jail. Even if the offenders did not get their licenses back, they would have the opportunity to “beat the substance problem.”

One treatment and counseling official said that OAR penalties had been reduced and “the OAR laws are in line now.” He did not want to see harsher fines. He praised judges and prosecutors who are willing to work with offenders to restore their licenses by reducing charges. He said that people need their licenses in rural counties where public transportation is not available.

A public defender said that the OAR punishment is already high enough. He said that harsh penalties are counterproductive because they make the offenders feel hopeless. A correctional product vendor said that the current law is strict enough but the sanctions of fines and incarceration are not working.

“We should help them get their license back. If you make it so they have no hope for the future, they will always be a drunk driver. In the long run, it will increase the tendency to drink and drive.... Give them hope, and you won’t see them again.”

“The current law is strict enough. Money and jail time are not getting to people.”

The Least Effective Measures

The following four measures were generally unpopular with the study respondents.

Vehicle Seizure

A few respondents said that vehicle seizure could be effective in fighting repeat drunk driving. One educator acknowledged that there would be legal problems if the drunk driver did not own the vehicle, but he said:

“I would like to see more of that. It has great merit.”

Main Findings

But more respondents said that it is not effective. They said that drunk drivers tend to drive very cheap vehicles (often worth less than \$100). However, one respondent said that in poor rural areas where few families have more than one vehicle, confiscating that one can keep drunk drivers off the roads.

A public defender said vehicle seizure *“is virtually meaningless as a sanction. The cars are worth \$50.”* A captain in a sheriff’s department said that seizure might be effective if the vehicle were expensive but that judges are reluctant to confiscate expensive vehicles or vehicles with liens on them. But:

“Most of the time you end up with a \$50 piece of junk. They just get another one.”

A district attorney said:

“It’s a humonguous waste of time. Seizure is a lot of work for absolutely nothing. It is totally ineffective as a deterrent.”

He also said that the offender can simply buy another vehicle. In addition, the vehicle cannot be seized until after a conviction, which could be months later. By that time, *“the vehicle is nowhere to be found.”*

A member of the Criminal Justice Council said that seizing the vehicle would be unfair for other people in the offender’s household who are dependent on the vehicle.

Disabling the Vehicle

Although most respondents did not have experience with vehicle immobilization and did not offer an opinion, most of those who did were opposed to it. Their criticisms echoed those for vehicle seizure. They said that the vehicles are not worth much anyway, so the offenders are not particularly worried about losing them. In addition, one respondent said that offenders sell their vehicles before they can be immobilized.

One educator in a technical college said disabling the vehicle:

“has merit, but the problem is that law enforcement needs to check to see if the vehicle is immobilized, and they don’t have the time.”

Zebra Plates

None of the respondents had personal experience with special license plates for repeat drunk drivers (the plates are often called “zebra plates” because they typically have stripes on them). One respondent thought they might be useful for offenders with three or more OWIs by convincing them to drive carefully. He said:

“It sounds like the scarlet letter. You would think the police are more likely stop somebody with special plates, so the driver would not drink and would drive carefully.”

Main Findings

Most respondents did not like the idea. They said that it punished other family members and was too much like branding someone with a “scarlet letter.” Some of the comments were:

“I’m not a big fan of that. That doesn’t deter anybody.”

“[Zebra plates] discriminate against the family members who are not responsible.”

“Public shame is rarely effective.... It makes other people feel good, but it does nothing for the community, and it doesn’t do anything to change the person’s behavior.”

“[Zebra plates] affect a person’s ability to get ahead. I don’t believe in giving people a scarlet letter. You might as well brand them.”

Public Humiliation

All of the respondents with opinions said that public humiliation tactics, such as printing offenders’ names in newspapers, could be effective for first-time offenders but would not be effective for repeat offenders. A public defender said that with more and more offenses, public humiliation is less and less effective. He said that repeat drunk drivers do not have stakes in their communities and usually do not have jobs or families.

Implementation Issues

The following three implementation issues came up during the interviews although there were no specific questions about them. The first one concerns a problem in the system of accounting for drunk drivers. The next two are impending problems with drunk driving that many respondents said are inevitable with the new “get tougher” laws.

Holes in the System

Because of incomplete feedback loops, there are some holes in the system of accounting for drunk drivers. According to one prosecuting attorney, the courts are not informed if a convicted offender does not go to an assessment. As a result, they do not know if offenders have participated in treatment or educational programs or have had their driver’s licenses reinstated. He said that the district attorney is informed if the offender fails to show up for jail or fails to pay a fine but is not informed if the offender does not show up for an AODA assessment. He said:

“The real problem is [that if] they don’t get the treatment, the court doesn’t find out until [the offender] is stopped for drunk driving or an OAR.”

In addition, one respondent said that only 10%-13% of convicted offenders who are ordered to install an Ignition Interlock Device (IID) actually do so. He said that except for Dane and Walworth Counties, there is no follow-up to see if the offenders ordered to use IIDs have actually had them installed. He also said this is a well-known fact.

In sum, the ability of the state to monitor convicted offenders is limited, and the ability of offenders to avoid treatment, education, and punishment is enhanced.

Main Findings

Lack of Jail Space

A few respondents noted that incarceration is an extremely expensive way to deal with drunk driving. They also said that drunk drivers are taking up space that could be used by other types of criminals. One police captain said:

“About one-third of the Huber prisoners are drunk drivers. They are taking up bed space that could be used for more serious criminals.”

Most of the respondents did not say that there is inadequate space today, but they said that with increasingly strict OWI laws, the state and local jurisdictions will be forced to build new facilities if they are to incarcerate all the offenders who are sentenced to jail or prison.

Changing Definitions

Some respondents commented on changes in the law, especially how the term “repeat offender” is defined. Whereas previously, OWI convictions were “forgotten” after several years, now they continue to compile for a driver’s life from 1989. Some respondents said that there will be an increase in “repeat” drunk drivers as time progresses and 1989 recedes into history. In a few years Wisconsin’s OWI statistics will appear to be getting worse. In addition, there will be a need for additional jails and prisons.

One police officer said that there will be more multiple OWI offenders in the future simply because of the way that numbers of offenses are counted.

“There are two types of second offenders: somebody on a path to self destruction and somebody who is a second-time offender because of a different way of counting. A person may get another OWI nine years after the last one and would have been a first-time offender in the past, but now is a second-time offender. There will be more ‘three plus’ offenders because of the way the number is counted.”

A public defender said “*the crisis is yet to come*” and will be particularly important in terms of jail space. He suggested an example of a person who has one OWI conviction and then 12 years later has another and 12 after that has a third. In the past, that person would have been a “first-time offender” three times, but today, he would be a third-time offender.

The public defender said that as time progresses and January 1, 1989 recedes into the past more and more drivers will be guilty of third and subsequent offenses—which will increase the need for jail space. He said that this is a “collateral consequence” of tougher drunk driving laws.

APPENDIX

INTERVIEW DISCUSSION GUIDE

Appendix – Interview Discussion Guide

OWI IN-DEPTH INTERVIEWS DOT, DOC, DHFS

Hello, my name is Russell Brooker. I'm calling from The Dieringer Research Group. A few days ago, you made an appointment with Jay Waite, from our office, to participate in a survey about alternatives to incarceration for repeat drunk drivers. This is the interview.

[IF NECESSARY] We have been contracted by the Wisconsin Department of Transportation to assist in the study and evaluation of various anti-drunk driving measures, such as incarceration, education, or treatment. This study, a joint effort between the departments of corrections, health and family services, and transportation, is required by the 1999 Wisconsin Act 109, Section 88.

Your name has been provided as an expert candidate for this study.

BACKGROUND EXPLANATION:

- Explain Act 109 requirement to study alternatives to incarceration for repeat drunk driving
- For this interview, I am interested only in the part of OWI that occurs after the drunk driver has been stopped—Not things like: .10 BAC v. .08 BAC
- Concentrate on repeat offenders
- **When I say “alternatives to incarceration,” I mean any measures that could be taken instead of or in addition to incarceration.**
- What I want to know is:
 - WHAT THOUGHTS OR IDEAS DO YOU HAVE ON ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNK DRIVING?

WHAT WORKS/WHAT DOESN'T WORK:

1. In your opinion, what works best in fighting repeat drunk driving?
2. In your opinion, what does not work so well?
3. In your opinion, what should the role of incarceration and other measure be? That is, should other measures be used instead of or in addition to incarceration?
4. In your opinion, how is a first-time OWI offender different from a second-time offender from a third-time offender, and so on?



Appendix – Interview Discussion Guide

ASK QUESTIONS 5 - 8 ONLY FOR THE ITEMS RESPONDENT DID NOT ALREADY NAME.

WHAT ARE YOUR OPINION OF THE FOLLOWING MEASURES:

5. Personal sanctions on the driver

- Detention facilities
- Home confinement
- Intensive Supervision Probation
- Pretrial Intensive Supervision Program (ISP)
- Individualized sanctions
- Work release
- Incarceration
- Public service work
- Restricted plea bargaining
- Fines
- Harsher sanctions for persistent OWI offenders
- Victim Impact Panels
- Other Personal Sanctions

6. Treatment and Education of the driver

- Treatment programs
- Education programs
- Dedicated OWI treatment facilities
- Diversion into education or treatment programs
- Use of Alcoholics Anonymous

7. Sanctions based on the driver's license

- Administrative license suspension (ALS)
- Harsher sanctions for offenders who drive after their license has been taken away

8. Sanctions on the vehicle

- Seizure of the vehicle
- Disabling the vehicle
- Vehicle forfeiture
- Use of an ignition interlock device (IID)
- Seizure of the license plates
- Use of special license plates on offenders' vehicles

Appendix – Interview Discussion Guide

IF YOU WERE IN CHARGE OF DEVELOPING THE WISCONSIN PROGRAM FOR DEALING WITH CONVICTED IMPAIRED DRIVERS:

9. What would you include in it?

10. What would you definitely NOT include?

DO YOU HAVE ANY OTHER THOUGHTS, OPINIONS, OR IDEAS?

